Case 11-28676-mkn Doc 535-1 Entered 04/25/12 15:25:21 Page 1 of 5 MICHAEL L. TUCHIN (CA State Bar No. 150375) ROBERT M. CHARLES, JR. (NV Bar No. 6593) Admitted Pro Hac Vice DAWN M. CICA (NV Bar No. 4565) MARTIN R. BARASH (CA State Bar No. 162314) LEWIS AND ROCA LLP Admitted Pro Hac Vice 3993 Howard Hughes Pkwy., Suite 600 3 Las Vegas, NV 89169 COURTNEY E. POZMANTIER (CA State Bar No. 242103) Telephone: (702) 949-8200 Admitted Pro Hac Vice Facsimile: (702) 949-8398 JONATHAN M. WEISS (CA State Bar No. 281217) Admitted Pro Hac Vice Emails: rcharles@lrlaw.com KLEE, TUCHIN, BOGDANOFF & STERN LLP dcica@lrlaw.com 1999 Avenue of the Stars, 39th Floor Reorganization Co-Counsel for the Los Angeles, CA 90067 Debtor and Debtor in Possession Telephone: (310) 407-4000 Facsimile: (310) 407-9090 Emails: mtuchin@ktbslaw.com 8 mbarash@ktbslaw.com cpozmantier@ktbslaw.com 9 jweiss@ktbslaw.com 10 Reorganization Counsel for the Debtor and Debtor in Possession 12 UNITED STATES BANKRUPTCY COURT 13 DISTRICT OF NEVADA 14 15 Case No. 2:11-bk-28676 (MKN) In re: 16 NEVADA CANCER INSTITUTE, a Nevada nonprofit corporation, Chapter 11 17 STIPULATION RESOLVING OBJECTION 18 Debtor. TO ADMINISTRATIVE EXPENSE 19 ASSERTED IN CLASS PROOF OF CLAIM FILED BY SHAMINE POYNOR (CLASS 20 NO. 148) Hearing Date: May 2, 2012 Hearing Time: 11:00 a.m. 22 23 24 25 26 27

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The Debtor's address and last four digits of its Federal Tax I.D. are: 10530 Discovery Drive, Las Vegas, NV 89135 [EIN XX-XXX2553].

This Stipulation Resolving Objection To Administrative Expense Asserted In Class Proof Of Claim Filed By Shamine Poynor (Class No. 148) (the "Stipulation") is entered into by and between Nevada Cancer Institute, a Nevada nonprofit corporation (the "Debtor"), the debtor and debtor in possession in the above-captioned case, on the one hand, and Shamine Poynor, by and through her counsel, on the other hand. This Stipulation is made with reference to the following recitals:

RECITALS

- A. On April 19, 2011, Ms. Poynor commenced a civil action against the Debtor (the "District Court Action") in the District Court for this District, asserting liability on behalf of herself and similarly situated persons, under the Worker Adjustment and Retaining Notification Act, 29 U.S.C. §§ 2101 ("WARN Act"), which was certified as a class action on October 26, 2011. Ms. Poynor was appointed Class Representative and undersigned counsel was appointed Class Counsel.
- B. On December 2, 2012 (the "Petition Date"), the Debtor commenced the above-referenced case by filing a voluntary petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtor has filed in its case the *Amended Plan of Reorganization For Nevada Cancer Institute* (Dated January 31, 2012) (as amended, the "Plan").
- C. As a result of the automatic stay under Bankruptcy Code section 362(a), the District Court action has been stayed since the Petition Date.
- D. On January 30, 2012, Ms. Poynor filed a class proof of claim (subsequently numbered "Claim No. 148" by the Court-appointed claims agent), asserting liability against the Debtor on behalf of herself and the certified class of approximately 150 terminated employees, under the WARN Act.
- E. In addition to asserting a general unsecured claim based upon the Debtor's alleged violation of the WARN Act prior to the Petition Date, Claim No. 148 asserts "an allowed administrative priority claim for the reasonable attorneys' fees and the costs and disbursements incurred in prosecuting this action, as authorized by the WARN Act, 29 U.S.C. § 2104(a)(6)."
- F. On April 2, 2012, the Debtor filed and served the *Debtor's Objection To Administrative Expense Asserted in Class Proof of Claim Filed by Shamine Poynor (Claim No. 148)* [Docket No. 468] (the "Administrative Expense Objection") objecting to the allowance of the

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27 28 administrative expense asserted in Claim No. 148, and reserving all rights as to the general unsecured claim asserted in Claim No. 148.

- G. On April 18, 2012, Ms. Poynor filed Plaintiff's Response in Opposition to Debtors' Objection to Administrative Expense Treatment of WARN Class' Attorneys Fees and Expenses [Docket No. 516] ("Poynor Opposition"), opposing the Administrative Expense Objection.
- H. The Debtor and Ms. Poynor have conferred regarding the Administrative Expense Objection and the Poynor Opposition and determined, in an effort to minimize the costs and risk associated with litigation of the issues raised therein, to resolve the Administrative Expense Objection and Poynor Opposition as set forth below.

STIPULATION

NOW, THEREFORE, the Debtor and Shamine Poynor hereby stipulate and agree to the following:

- 1. The WARN Class shall have an allowed administrative expense in this case under Bankruptcy Code section 503(b)(1) in the amount of \$3,000. This administrative expense shall constitute the only allowed administrative expense of Ms. Poynor and the Class in this case, and all other administrative expenses that have been or may be asserted by Ms. Poynor and the Class are hereby disallowed.
- 2 The provisions of Paragraph 1 of this Order are without prejudice to the right of Ms. Poynor or the Class to seek allowance of a general unsecured claim for the balance of fees and expenses incurred in connection with Claim No. 148, and without prejudice to any objection that the creditor trust, to be created under the Plan, may assert with respect to such fees and expenses and any other general unsecured claim asserted in Claim No. 148.
- 3. The Debtor shall satisfy the \$3,000 administrative expense allowed in Paragraph 1 by dispatching payment thereof to WARN Class Counsel, Outten & Golden LLP, within five (5) business days of the entry of an order approving this Stipulation.
- 4. The Court shall retain exclusive jurisdiction over the subject matter of this Stipulation in order to resolve any dispute in connection with the rights and duties specified hereunder.

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1	5. This Stipulation may be executed in original or facsimile signature and in
2	counterpart copies, and this Stipulation shall be deemed fully executed and effective when all
3	parties have executed and possess a counterpart, even if no single counterpart contains all
4	signatures.
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6	STIPULATED AND AGREED TO BY:
7	Dated: April 25 2012 NEVADA LANCER INSTITUTE
8	By:
9	George D. Pillari Chief Restructuring Officer and President
10	emer Restructuring officer and resident
11	Dated: April, 2012 SHAMINE POYNOR
12	By:
13	René S. Roupinian Outten & Golden LLP
14	3 Park Ave, 29th Floor
15	New York, NY 10016
16	Counsel to Plaintiff and the Certified Class
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2	counterpart copies, and this Stipulation shall be deemed fully executed and effective when all
3	parties have executed and possess a counterpart, even if no single counterpart contains all
4	signatures.
5	
6	STIPULATED AND AGREED TO BY:
7	Dated: April, 2012 NEVADA CANCER INSTITUTE
8	Ву:
9	George D. Pillari Chief Restructuring Officer and President
10	
11	Dated: April 252012 SHAMINE POYNOR
12	By:
13	René'S. Roupinian Outten & Golden LLP
14	3 Park Ave, 29th Floor New York, NY 10016
15	Counsel to Plaintiff and the Certified Class
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